

House File 593 - Introduced

HOUSE FILE _____
BY HEATON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act requiring a person arrested for a felony to submit a DNA
2 sample, and providing a contingent effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1455YH 82
5 jm/es/88

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1 1 Section 1. Section 81.1, Code 2007, is amended by adding
1 2 the following new subsections:
1 3 NEW SUBSECTION. 0A. "Arrest" means the same as in section
1 4 804.5 and as "taking into custody" in section 232.2.
1 5 NEW SUBSECTION. 0B. "Dismissal of the charges" means
1 6 dismissal of the complaint, indictment, or information in
1 7 adult court and dismissal of the complaint or petition in
1 8 juvenile court.
1 9 Sec. 2. Section 81.1, subsection 8, Code 2007, is amended
1 10 to read as follows:
1 11 8. "Person required to submit a DNA sample" means a person
1 12 convicted, adjudicated delinquent, receiving a deferred
1 13 judgment, or found not guilty by reason of insanity of an
1 14 offense requiring DNA profiling pursuant to section 81.2.
1 15 "Person required to submit a DNA sample" also means a person
1 16 arrested for an offense classified as a felony and a person
1 17 determined to be a sexually violent predator pursuant to
1 18 section 229A.7.
1 19 Sec. 3. Section 81.2, Code 2007, is amended by adding the
1 20 following new subsection:
1 21 NEW SUBSECTION. 0A. A person arrested for an offense
1 22 classified as a felony shall be required to submit a DNA
1 23 sample for DNA profiling pursuant to section 81.4.
1 24 Sec. 4. Section 81.4, subsection 2, Code 2007, is amended
1 25 to read as follows:
1 26 2. A supervising agency having control, custody, or
1 27 jurisdiction over a person shall collect a DNA sample from a
1 28 person required to submit a DNA sample. The supervising
1 29 agency shall collect a DNA sample, upon admittance to the
1 30 pertinent institution, jail, or facility, of the person
1 31 required to submit a DNA sample or at a determined date and
1 32 time set by the supervising agency. If a person required to
1 33 submit a DNA sample is confined at the time a DNA sample is
1 34 required, the person shall submit a DNA sample as soon as
1 35 practicable. If a person required to submit a DNA sample is
2 1 not confined after the person is required to submit a DNA
2 2 sample, the supervising agency shall determine the date and
2 3 time to collect the DNA sample.
2 4 Sec. 5. Section 81.9, subsections 1 and 2, Code 2007, are
2 5 amended to read as follows:
2 6 1. A person whose DNA record has been included in the DNA
2 7 database or DNA data bank established pursuant to section 81.3
2 8 may request, in writing to the division of criminal
2 9 investigation, expungement of the DNA record from the DNA
2 10 database and DNA data bank based upon dismissal of the charges
2 11 which caused the submission of the DNA sample, or the person's
2 12 conviction, adjudication, or civil commitment which caused the
2 13 submission of the DNA sample being reversed on appeal and the
2 14 case dismissed. The written request shall contain a certified
2 15 copy of the final court order dismissing the charges or
2 16 reversing the conviction, adjudication, or civil commitment,
2 17 and a certified copy of the dismissal, and any other
2 18 information necessary to ascertain the validity of the
2 19 request.
2 20 2. The division of criminal investigation, upon receipt of

2 21 a written request that validates the dismissal of the charges,
2 22 or reversal on appeal of a person's conviction, adjudication,
2 23 or commitment, and subsequent dismissal of the case, or upon
2 24 receipt of a written request by a person who voluntarily
2 25 submitted a DNA sample pursuant to section 81.3, subsection 3,
2 26 paragraph "b", shall expunge all of the DNA records and
2 27 identifiable information of the person in the DNA database and
2 28 DNA data bank. However, if the division of criminal
2 29 investigation determines that the person is otherwise
2 30 obligated to submit a DNA sample, the DNA records shall not be
2 31 expunged. If the division of criminal investigation denies an
2 32 expungement request, the division shall notify the person
2 33 requesting the expungement of the decision not to expunge the
2 34 DNA record and the reason supporting its decision. The
2 35 division of criminal investigation decision is subject to
3 1 judicial review pursuant to chapter 17A. The department of
3 2 public safety shall adopt rules governing the expungement
3 3 procedure and a review process.

3 4 Sec. 6. Section 229A.7, subsection 6, Code 2007, is
3 5 amended to read as follows:

3 6 6. If the court or jury determines that the respondent is
3 7 a sexually violent predator, the court shall order the
3 8 respondent to submit a DNA sample for DNA profiling ~~pursuant~~
3 9 ~~to section 81.4 if a DNA sample has not been previously~~
3 10 ~~submitted pursuant to chapter 81.~~

3 11 Sec. 7. Section 232.52, subsection 10, Code 2007, is
3 12 amended to read as follows:

3 13 10. The court shall order a juvenile adjudicated a
3 14 delinquent for an offense that requires DNA profiling under
3 15 section 81.2 to submit a DNA sample for DNA profiling ~~pursuant~~
3 16 ~~to section 81.4 if a DNA sample has not been previously~~
3 17 ~~submitted pursuant to chapter 81.~~

3 18 Sec. 8. Section 331.653, Code 2007, is amended by adding
3 19 the following new subsection:

3 20 NEW SUBSECTION. 72. Carry out duties relating to
3 21 collecting DNA samples pursuant to section 81.4.

3 22 Sec. 9. Section 901.5, subsection 8A, paragraph a, Code
3 23 2007, is amended to read as follows:

3 24 a. The court shall order ~~DNA profiling of a defendant~~
3 25 ~~convicted of an offense that requires DNA profiling under~~
3 26 ~~section 81.2, to submit a DNA sample for DNA profiling if a~~
3 27 ~~DNA sample has not been previously submitted pursuant to~~
3 28 ~~chapter 81.~~

3 29 Sec. 10. Section 906.4, unnumbered paragraph 3, Code 2007,
3 30 is amended to read as follows:

3 31 The board may order the defendant to provide a ~~physical~~
3 32 ~~specimen to be DNA sample for DNA profiling if a DNA sample~~
3 33 ~~has not been submitted for DNA profiling pursuant to chapter~~
3 34 ~~81 as a condition of parole or work release, if a DNA profile~~
3 35 ~~has not been previously conducted pursuant to chapter 81. In~~
4 1 ~~determining the appropriateness of ordering DNA profiling, the~~
4 2 ~~board shall consider the deterrent effect of DNA profiling,~~
4 3 ~~the likelihood of repeated offenses by the defendant, and the~~
4 4 ~~seriousness of the offense.~~

4 5 Sec. 11. CONTINGENT EFFECTIVENESS. This Act shall not
4 6 take effect unless an appropriation is enacted or the state's
4 7 share of the cost of this Act is specified in accordance with
4 8 section 25B.2, subsection 3.

4 9 EXPLANATION

4 10 This bill expands the number of persons required to submit
4 11 a DNA sample in a criminal proceeding.

4 12 The bill provides that a person arrested for an offense
4 13 classified as a felony shall submit a DNA sample for storage
4 14 in the DNA bank and DNA database maintained by the division of
4 15 criminal investigation of the department of public safety.
4 16 The bill also applies to juveniles taken into custody for an
4 17 offense classified as a felony if committed by an adult.

4 18 Current law requires a person to submit a DNA sample if
4 19 convicted, adjudicated delinquent, receiving a deferred
4 20 judgment, or found not guilty by reason of insanity of an
4 21 offense requiring DNA profiling pursuant to Code section 81.2.

4 22 The bill provides that upon admittance to a county jail,
4 23 the county sheriff shall collect a DNA sample from a person
4 24 arrested for a felony.

4 25 The bill also provides that if the offense which caused the
4 26 submission of a DNA sample is dismissed, the person who
4 27 submitted the DNA sample may file a written request along with
4 28 certified copies of relevant court records to expunge the DNA
4 29 record from the DNA bank and DNA database. Under the bill, if
4 30 the written request validates the dismissal of the charges the
4 31 division of criminal investigation shall expunge the DNA

4 32 record.

4 33 The bill may include a state mandate and therefore contains
4 34 a contingent effectiveness provision which states that the
4 35 bill does not take effect unless the state complies with the
5 1 state mandate funding requirement of Code section 25B.2, which
5 2 mandates funding for the cost of the state mandate to be
5 3 provided or specified.

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